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In the
Supreme Court of the United States
October Term, 2003

Adrian D. Horien,
Petitioner
v.
City of Rockford, Illinois,
Respondent

On Petition for Certiorari
to the Appellate Court of Illinois, First District

Brief of Consistent Life, Catholic Peace Fellowship, Center for Law and Human Rights, Citizens United for Alternatives to the Death Penalty, Feminists for Life of America, Pax Christi USA, People for the Ethical Treatment of Animals, Sojourners, Daniel Berrigan, Wendell Berry, Abe Bonowitz, Will Davis Campbell, Jim and Shelley Douglass, Thomas Gumbleton, Nat Hentoff, Kathy Kelly, Andy Lipscomb, Martin Sheen, Howard Zinn, Stephen Zunes, et al., as Amici Curiae in Support of Petitioner

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Interests of the Amici Curiae

This brief is filed with the consent of the parties. A copy of the consent letters has been filed with the Clerk of the Court. Amici[1] are voluntary associations and individuals committed to principles of nonviolent direct action on a wide range of social issues. Participation in this brief does not necessarily mean that an organization or individual agrees with the substantive views of the petitioner about abortion. Some support and others oppose the views of the petitioner on abortion; still others have no official view on abortion. But all of the amici, whether individuals or communities, join this brief because they agree that imposing criminal penalties on persons who engage in "annoying" speech is clearly at odds with the central meaning of the First Amendment: the "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open." *New York Times v. Sullivan*, 376 U.S. 264, 270 (1964). The particular interests of the amici curiae are stated in Appendix A.

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[1] Pursuant to Rule 37.6 of the Rules of this Court, amici state that no counsel for a party has authored this brief in whole or in part and that no person or entity, other than amicus curiae, its members, or its counsel, has made a monetary contribution to the preparation or submission of this brief.

Summary of Argument

I. Petitioner was arrested and convicted under a municipal ordinance making it "unlawful to cause or create any unnecessary or unusual noise at any time which *annoys, injures, or endangers the comfort, repose*, health or safety of others..." Pet. App. 14a (emphasis added). Affirming the conviction, Pet. App. 1a-9a, the intermediate state appellate court completely ignored the controlling precedents of this Court: *Coates v. City of Cincinnati*, 402 U.S. 611 (1971) and *Grayned* v. *City of Rockford* 408 U.S. 104 (1972). It relied instead on two fifty-year-old Illinois Supreme Court decisions predating the relevant decisions of this Court. The Court should grant the petition and summarily reverse.

II. In the alternative, if the Court wishes to treat the First Amendment issue with greater attention by taking this opportunity to reaffirm the principles set forth in *Coates* and *Grayned*, then amici suggest that it is impossible to reconcile the standard of "annoyance" with this country's long history of movements of social protest that have enhanced the protection of life, liberty, and equality in this nation.

III. An additional reason for granting the petition is that the decision of the state court of appeals is at odds with the special solicitude that this Court has shown to including religious speech with the many forms of expression protected in classic public fora, such as sidewalks and streets.

Argument: Reasons for Granting the Petition

1. Amici adopt by reference the statement of facts in the petition. The crucial facts are these. Petitioner Adrian Horien opposes abortion on moral and religious grounds. On the morning of June 8, 2001, he and others stood on the public sidewalk in Rockford, Illinois, near the entrance to a driveway leading to a clinic that provides abortion services. In an effort to communicate the message that abortion is wrong, Mr. Horien called out in a loud, falsetto voice to people entering or leaving the clinic from a parking lot adjacent to the clinic entrance. Pet. 2; see also Pet. App. 1a-4a.

The applicable legal standards are equally straightforward and easy to apply to the facts. The very fact that these standards were ignored below suggests an impermissible viewpoint discrimination, which this Court has repeatedly rejected with particular vigor. *See, e.g., Carey v. Brown*, 447 U.S. 455, 459-71 (1980); *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 98-102 (1972).

The City of Cincinnati, Ohio, once had a municipal ordinance that punished conduct that was "annoying" to others. This standard is inherently subjective. Since no one faced with such a law could possibly know whether or when he might be breaking it, this Court ruled in *Coates v. City of Cincinnati*, 402 U.S. 611 (1971), that a prohibition on annoying others is unconstitutionally vague in violation of the Due Process Clause and unconstitutionally overbroad in violation of the First Amendment. *See also Edwards v. South Carolina*, 372 U.S. 229, 237-38 (1963) (breach-of-the-peace crime was so generalized as to be insusceptible of exact definition); *Stromberg* v. *California*, 283 U.S. 359, 369 (1931) (penal statute which "upon its face, and as authoritatively construed, is so vague and indefinite as to permit the punishment" of an individual's use of "the opportunity for free political discussion" is contrary to the First Amendment).

In 1972, a year after *Coates*, this Court distinguished *Coates*, sustaining a much narrower Rockford anti-noise ordinance prohibiting the willful making of a "noise or diversion" (a) on property directly adjacent to a school, (b) during school hours, if the noise (c) "disturbs or tends to disturb" the school session. *Grayned* v. *City of Rockford*, 408 U.S. 104 (1972). Even with these critical distinctions, the Court acknowledged that that the constitutional question was a very close one. *Id.*, at 109.

In 1974, three years after *Coates*, the City of Rockford, Illinois, adopted a municipal ordinance that reads, in pertinent part: "Sec. 17-10. Nuisance noises. (a) It shall be unlawful to cause or create any unnecessary or unusual noise at any time which *annoys, injures, or endangers the comfort, repose*, health or safety of others unless such noise is necessary for the protection or preservation of property or of the health, safety, or life of some person." Pet. App. 14a (emphasis added); for the full text of the ordinance, see Pet. App. 11a-15a.

In 2001, thirty years after *Coates*, petitioner was arrested and convicted not under the ordinance narrowly sustained in *Grayned*, but under the 1974 Rockford ordinance that is indistinguishable from the ordinance roundly rejected by the Court not only in *Coates*, but also by clear implication in *Grayned*, which distinguished ordinances that rely on a "completely subjective standard of `annoyance,'" from a school disruption ordinance that "prohibited disturbances" that were "easily measured by their impact on the normal activities of the school.." 408 U.S., at 112.

In the appeal that followed, petitioner briefed the state court of appeals on *Coates*, and respondent briefed the court on *Grayned*. In 2002 the state intermediate appellate court never cited or discussed *Coates* and *Grayned* in its opinion, Pet. App. 1a-9a. Instead, it relied on two decisions of "our Supreme Court" [i.e., of Illinois] predating the relevant decisions of this Court, Pet App. 5a, and it affirmed the criminal conviction, Pet. App. 9a. This Court should grant the petition and summarily reverse.

2. As the petition notes, this case comes before the Court in the context of a clear and serious conflict among state courts over the standards that should govern speech on public streets and sidewalks. Pet. 14-21, 36-39. If for this reason the Court wishes to grant the petition and place this case on its docket for argument, the Court should consider the "realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court." *Bd. of Airport Comm'rs* v. *Jews for Jesus, Inc.*, 482 U.S. 569, 574 (1987). From decades of experience in social protest on a wide range of issues, amici know that a national rule harmonizing the First Amendment with the "completely subjective standard of annoyance," *Grayned*, 408 U.S., at 112, would have a severely chilling effect upon protesters of all stripes.

It is impossible to avoid the deeply conflictual character of American history. The struggle of the united colonies to become the United States was just that, a struggle. After our independence was won, there ensued an enormous divide between Federalists and Anti-Federalists over the ratification of the Constitution. In the same year that the Constitution was signed in Philadelphia, the first abolitionist society was formed in the same city to begin the major struggle over slavery that the Constitution left undone. In the same

era of the founding and the early republic (not, as some might imagine, in the early twentieth century) women began agitating for the abolition of slavery and for the enfranchisement of women. American history is replete with conflicts in which some parties to the contest said and did things that were mightily annoying to their opponents. Major social change is nearly always annoying to those who favor the status quo. Yet this very struggle has been the forge on which our fundamental self-understanding as a community and our most basic and characteristic freedoms have been hammered out.

Americans have been engaged in conflict over basic values in every generation from the founding moment to the present, from the Boston Tea Party through peace protests (notably during the Mexican-American War, the Civil War, World War I, World War II, the Vietnam War, and the on-going War in Iraq), to demonstrations against the New Economic Forum and demonstrations to uphold the rights of animals. Thus the current controversy over abortion is by no means the first volatile issue in the nation, nor will it be the last.

During the Cold War we frequently compared ourselves favorably to totalitarian regimes of the Left and the Right that swallowed up their opposition, sending them to the death camps and the Gulags for extermination. We take some pride in the way we have – by and large – respected the strong voice of protest within our legal and political culture. But Americans have tended to recognize the value of social protest decades after it occurred, when the position the protesters espoused was more broadly received by the people and incorporated into our laws. It is true that harsh penalties were frequently meted out to dissidents, but it is equally true that our dissidents have at many critical turning points of American history helped to shape our destiny.

If the Court grants the petition for plenary review rather than summary disposition, amici will brief this point more fully, offering the Court several illustrations of why the limits on free speech sustained by the state court of appeals are fundamentally at odds with the history of our nation. At this stage of the proceedings, we think it enough to focus the discussion on two aspects of our constitutional history – racial equality and gender equality – and to point to various other volatile issues in which

provocative speech has caused annoyance in the short term and enormous benefit to the health and well-being of our society in the long term.

A. If punishment of annoying ideas had been the law of the land during the period of American slavery and Jim Crow, the overcoming of those twin evils would have been postponed for much longer than the time actually needed to do so.

As Justice Marshall reminded us during the Bicentennial of our Constitution, not everything about this country's past – including slavery and Jim Crow segregation – is cause for rejoicing. Thurgood Marshall, "Reflections on the Bicentennial of the United States Constitution," 26 Valparaiso U. L. Rev. 21 (1991).

The Rockford ordinance challenged in this case has some nineteenth-century antecedents, but none that are glorious or worthy of emulation. For example, slaveholders found the protest speeches and expressive conduct of the radical Abolitionists mightily "annoying." For this reason the House of Representatives entered an infamous gag order that disallowed the reading of any petitions to the House from citizens seeking that the House abolish slavery in the District of Columbia. As Representative John Quincy Adams noted repeatedly, this gag order was in manifest violation of the First Amendment's protection of the right of the People to petition Congress for a redress of grievance. *See, e.g.*, Michael Les Benedict, *The Blessings of Liberty: A Concise History of the Constitution of the United States* 159-60 (1996).

If the slaveholders who demanded this rule in Congress were annoyed at the suggestion of even such a mild and gradualist an approach to the slavery question, their counterparts in southern legislatures were much more annoyed at more radical proposals – denouncing slavery as immoral and unjust and calling for its immediate abolition – that were mailed from Massachusetts to the Old South. For example, the Commonwealth of Virginia went a step further than the gag rule adopted by the House of Representatives, prohibiting federal officials – postmasters – from delivering mail that opposed slavery. *See* Michael Les Benedict, ed., *Sources in American Constitutional History* 96 (1996). No one goes to such lengths of control who is not deeply annoyed by the ideas he wishes to suppress.

Nearly everyone in America would now regard the eradication of slavery as the just and rightful repudiation of a brutal and inhuman labor system. Some might claim that slavery might have been abolished earlier and with less bloodshed on the battlefields of the Civil War if the Abolitionists had been more accommodating to their adversaries, but this revisionist view overlooks the rigid mindset of the slaveholders who would brook no compromise on the matter of slavery as an "inalienable property right" bound up in their minds with an intractable position on state sovereignty.

The most famous of the Abolitionists, William Lloyd Garrison, was uncompromising in his campaign for immediate and complete abolition of slavery. In the first issue of *The Liberator* (Jan. 1, 1831) Garrison renounced his previous position of gradual abolition and publicly asked "pardon of my God, of my country, and of my brethren, the poor slaves, for having uttered a [gradualist] sentiment so full of timidity, injustice and absurdity." And he wrote: "urge me not to use moderation in a cause like the present! I am in earnest. I will not equivocate – I will not excuse – I will not retreat a single inch – AND I WILL BE HEARD" (emphasis in original), as cited in Louis Ruchames, ed., *The Abolitionists* 31 (1963). The extent to which the abolitionists became more "in earnest" is the extent to which they became more and more annoying to their opponents.

Garrison served as President of the American Anti-Slavery Society from 1843 to 1865. The society radically challenged the morality of owning a human being, and thus undermined the validity of the slaveowners' constitutional argument that they had a "property" interest in their "chattels personal." *See, e.g.,* Kenneth M. Stampp, *The Peculiar Institution: Slavery in the Ante-Bellum South* (2d ed. 1974). As Garrison had promised in the first issue of *The Liberator*, he became louder and clearer on the evil of slavery. On July 4, 1854, he told a mass meeting of over 10,000 abolitionists in Framingham, Massachusetts: "We have degenerated in our reverence for the higher law of God." *See* Philip S. Paludan, *A Covenant with Death: The Constitution, Law and Equality* 2-3 (1975); John T. Noonan, Jr. and Edward McGlynn Gaffney, Jr., *Religious Freedom* 263-64 (2001). Garrison then burned a copy of the Fugitive Slave Act of 1850. Echoing the

covenant renewal ceremonies in ancient Israel, Garrison stated: "And let the people say Amen" (*see, e.g.*, Deut. 27). The people did. Garrison then set fire to a copy of the order of a federal court in Boston that Anthony Burns – a black Baptist preacher who had escaped from his master in Richmond – be returned to his "legal owner." Again Garrison cited Moses: "And let the people say Amen." They did. Garrison then held up a copy of the Constitution, which he denounced as "the parent of all other atrocities." Citing the prophet Isaiah (Is. 28:15), he called the Constitution with its compromise on slavery "a covenant with death, a compact with hell." As he burned the Constitution, he shouted out: "So perish all compromises with tyranny! And let all the people say Amen." Again the large crowd roared out their assent in the single biblical word "Amen."

Were not Garrison's speeches and communicative acts profoundly annoying to Southern slaveholders, even to many Northerners? Yet would anyone in today's constitutional culture now seriously argue that speech of this sort should be unprotected on that ground alone it is annoying?

Garrison and the radical Abolitionists were ultimately heard. As Garrison accurately predicted in the opening issue of *The Liberator*, "POSTERITY WILL BEAR TESTIMONY THAT I WAS RIGHT" (emphasis in original), as cited in Louis Ruchames, ed., *The Abolitionists, supra* at 31. Although not all of the acts of the Abolitionists would gain support even today, the basic thrust of their movement has now clearly prevailed in the Thirteenth Amendment and in the statutes enacted by Congress under its enforcement provision.

After the Civil War, the nation experienced a powerful movement to rebuild or reconstruct our constitutional order, ridding it of the racial injustice that had marred it from the outset. See, e.g., Akhil Reed Amar, *The Bill of Rights: Creation and Reconstruction* (1998). For a variety of reasons, mainly ignoble, this movement was aborted as part of the Compromise of 1877. *See, e.g.*, Eric Foner, *Reconstruction, America's Unfinished Revolution 1863-1877* (1988); Edward McGlynn Gaffney, Jr., "History and Legal Interpretation: The Early Distortion of the Fourteenth Amendment by the Gilded Age Court," 25 Cath. U. L. Rev. 207 (1976). We are now more committed than ever to the

enforcement of the Civil War Amendments that would have been inconceivable without the firm resolve of the "Radical Republicans" of the late 1860s and the early 1870s. But was not their agenda annoying to most Southerners, including Andrew Johnson of Kentucky, the President they sought to impeach?

The Jim Crow system was as iniquitous at its core as it was violent in the pattern of enforcement by the government at the state and local levels. *See, e.g.*, C. Vann Woodward, *The Strange Career of Jim Crow* (3d ed. 1974). In the face of such systemic violence imbedded in the law, the Civil Rights Movement was remarkable precisely for the commitment of its leaders, principally Dr. Martin Luther King, Jr., to Gandhian nonviolence. But as Dr. King made clear in his famous Letter from Birmingham Jail, nonviolence did not mean obeying unjust laws. On the contrary, King and his followers in the Southern Christian Leadership Conference frequently challenged the brutality of the existing legal order in a manner that was annoying to public officials as different as Presidents Kennedy and Johnson, FBI Director J. Edgar Hoover, and Governor George Corey Wallace. *See, e.g.*, Taylor Branch, *Parting the Waters* (1988).

In *Edwards v. South Carolina*, 372 U.S. 229 (1963), this Court reversed the convictions of black protesters who marched upon the State Capitol to protest segregation. Was not the entire message of these protesters annoying to the state officials to whom they wished to present their grievances? The obvious to this question is found in the record in *Edwards*, where the government labeled the demonstration as "boisterous" and "flamboyant" conduct, and described a black preacher's fervent admonition to justice as a "religious harangue," and where objection was even taken to "loudly singing ... patriotic and religious songs, while stamping their feet and clapping their hands." *Id.* at 233; see also *Cox* v. *Louisiana*, 379 U.S. 536 (1965). This Court taught in *Edwards* that any penal statute which "`upon its face, and as authoritatively construed, is so vague and indefinite as to permit the punishment" of an individual's use of "the opportunity for free political discussion," is contrary to the First Amendment. *Id.* at 238 (quoting *Stromberg* v. *California*, 283 U.S. 359, 369 (1931).

Was not the refusal of Rosa Parks to sit at the back of the bus annoying to the officials of Montgomery, Alabama? Were not

the sit-ins at lunch counters annoying to Woolworth's and to city officials all over the old South? Were not the freedom riders and the marchers from Selma annoying to Governor Wallace? Was not Dr. King's march through the neighborhood of Richard J. Daley annoying to the Mayor of Chicago? No one would seriously maintain that Dr. King or his colleagues in the SCLC confined their protests to ones that refrained from annoying others. On the contrary, Dr. King repeatedly failed to meet the standard imposed on free speech by the ordinance sustained by the state court of appeals. The ruling in this case would have thrown an enormous obstacle in the path of the Civil Rights Movement.

The nation is now better off because of the movements to abolish slavery and to end Jim Crow law. Both of these movements faced steep opposition from those who wished to maintain the status quo. The opponents of these movements could easily have crushed the protesters if the feeble theory of free speech adopted by the state court of appeals had been available to them during these conflicted periods of American history.

B. If the view of the state court of appeals had been the law of the land during the period of feminist insistence upon full participation in the rights and obligations of citizenship, equal justice under law for women and men would have taken much longer than the two centuries it took to achieve.

Many scholars have noted strong parallels between the slavery system and the abusive treatment of women as "chattels personal" subject to the common law of coverture. *See* Michael Les Benedict, ed., *Sources in American Constitutional History* 70-72 (1996).

As early as the 1770s, women voiced the desire to participate in the franchise and to share in all of the obligations of citizenship. They were excluded from doing so on the basis of the theory of virtual representation, the theory that founders rejected when they repudiated the imperial rule of Great Britain over the American colonies. *See, e.g.,* Declaration of Independence, 1 Stat. 1 (1776); Linda K. Kerner, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* 3-33 (1998).

As with the struggle to abolish slavery and then to eradicate the legal structure of apartheid, the effort to change the inequality between men and women under the law of this land was a

prolonged and intense controversy. The feminists of the nineteenth century may not be contained within rosy-tinted portraits. Susan B. Anthony is rightly remembered as the principal advocate for the enfranchisement of women. She was also an agent of the American Anti-Slavery Society. In this capacity she urged an audience before the Civil War to "overthrow this government, commit its blood-stained Constitution to the flames, blot out every vestige of that guilty bargain of the father." As cited in Alma Luz, "Susan Brownell Anthony," in Edward James, ed., 1 *Notable American Women, 1607-1950: A Biographical Dictionary* 53 (1971).

The Declaration of Sentiments drafted by Elizabeth Cady Stanton and adopted at Seneca Falls in 1848 remains the classic statement of the mistreatment of American women. In this document nineteenth-century feminists bore powerful witness to the injustice of rules of law imposed upon women without their consent by all-male legislatures in which they had neither voice nor vote. *See* Michael Les Benedict, ed., *Sources in American Constitutional History* 72-74 (1996). Although a few men, notably Frederick Douglass, attended the convention and supported the Declaration, most men found the Declaration annoying or simply ignored it.

Eight decades after the adoption of the Nineteenth Amendment we now take for granted that women should be able to vote. But advocacy of this view was never easy, and men who opposed the "outlandish idea" of gender equality found deeply annoying the demands of nineteenth-century feminists to be included within the full meaning of the People who ordain and establish the Constitution of the United States. U.S. Const., Preamble. How else can one explain the egregious judicial misconduct of a member of this Court, Justice Ward Hunt, who presided over the government's trial of Susan B. Anthony on charges of voting fraud? Hunt disallowed the introduction of any exculpatory evidence, refused to allow Anthony's counsel to make closing argument, and directed the jury to enter a verdict of guilt without any opportunity to reflect upon the evidence. When Anthony rose to tell the jury her views on the constitutionality of her action, the justice demanded seven times that Anthony sit down and be silent, warning her that "The Court can not allow the prisoner to go on." After she finally sat down, Hunt required her to

stand up to hear her sentence. After he imposed a fine, Anthony told Hunt: "May it please your honor, I shall never pay a dollar of your unjust penalty.... I shall earnestly and persistently continue to urge all women to the practical recognition of the old revolutionary maxim, that 'Resistance to tyranny is obedience to God.'" As cited in David Weber, ed., *Civil Disobedience in America: A Documentary History* 185-88 (1978).

The views of Anthony and other like-minded women were ultimately vindicated by the ratification of the Nineteenth Amendment enfranchising women 133 years after the signing of the Constitution. But in the long interval between these events, the overwhelming majority of men turned a deaf ear to the overwhelming majority of the annoying demands of women for inclusion within the People who form in this republic "a more perfect Union, establish Justice, [and] insure domestic Tranquility." U.S. Const., Preamble.

More recently, women engaged in demonstrations and sit-ins reminiscent of those that occurred during the Civil Rights Movement of the 1960s. If the crabbed view of free speech espoused by the state court of appeals had been the law of the land in any of these eras, it would probably have taken much longer to achieve the prohibition of employment discrimination on the basis of gender contained in Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., and other important legislation promoting the equality dignity of men and women in our republic; *see, e.g.*, Equal Pay Act, 29 U.S.C. § 206, and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

C. Many other movements of social protest have engaged in speech and expressive conduct that was annoying to the powers that be at the time of these protests. Harsh criticism of monopoly capitalism was voiced in the late nineteenth and early twentieth century not only by obscure pamphleteers, *Abrams v. United States,* 250 U.S. 616, 628 (1919), but also by "the most famous of American literary figures, whose books were read by millions: Upton Sinclair, Jack London, Theodore Dreiser, Frank Norris." Howard Zinn, *A People's History of the United States* 322 (1999). But the works of the muckrakers were not punishable on the ground that they were "annoying."

In the early twentieth century some labor leaders engaged in radical criticism of the economic order that prevailed at the time. For example, in 1905 the founding convention of the Industrial Workers of the World declared: "The working class and the employing class have nothing in common. There can be no peace as long as hunger and want are found among millions of working people, and the few, who make up the employing class, have all the good things of life." As cited in Howard Zinn, *A People's History of the United States* 330 (1999).

The milder AFL deliberately eschewed any connection with socialist ideas such as worker ownership of what they produce with their labor. But Samuel Gompers' famous reply to what workers want – "More!" – does not fully describe the persistent protest of organized labor over the terms and conditions of employment. A fair reading of labor history discloses that unions have sought not only to gain higher wages and benefits for workers, but also to challenge deplorable exploitation of children by employers. For example, Mother Mary Jones, a white-haired organizer for the United Mine Workers of America, is best remembered for organizing the children's march on Washington in 1903 to demand an end to child labor. *See, e.g.,* Howard Zinn, *A People's History of the United States* 346 (1999); see also at 347 (arrest record of IWW organizer Elizabeth Gurley Flynn for annoying speeches that would now be fully protected under the First Amendment and applicable labor laws).

Both before and after the Norris-LaGuardia Act, 29 U.S.C § 101, prohibited courts from entering "labor injunctions," and both before and after the National Labor Relations Act, 29 U.S.C. § 151 et seq., protected picketing as a legitimate tool of labor protest, unions have engaged in speech that "annoyed" corporate managers such as Andrew Carnegie and Henry Ford. There may be reasons why the First Amendment may not fully protect all forms of "speech plus" that unions have engaged in, but this analysis surely does not turn on whether a union has "annoyed" management.

Mass demonstrations against the Vietnam War were surely annoying to Presidents Johnson and Nixon, but it was precisely in this context of agitated protest that this Court refined First Amendment law in *Brandenburg v. Ohio*, 395 U.S. 444 (1969) and expressly rejected the power of municipal government to punish

speech that was "annoying." *Coates, supra*, and *Grayned, supra*. These precedents are all the more important now that the nation is engaged in another war that has elicited mass protests in many cities throughout the land. *See, e.g.*, Manny Fernandez And Justin Blum, "Thousands Oppose A Rush To War; Chill Doesn't Cool Fury Over U.S. Stand On Iraq," *Washington Post*, Jan. 19, 2003.

Other examples of social protest include public demonstrations by persons with disabilities. For example, when this Court was hearing oral argument in *Vacco v. Quill*, 521 U.S. 793 (1997), many persons gathered in front of this Court and shouted repeatedly "We're not dead yet!" Supporters for the respondents or maybe even some members of this Court might have found these words "annoying," but no one on the Court or among those gathered in front of the Court thought that a feeling of "annoyance" sufficed to trigger an arrest to stop such speech. *See United States v. Grace*, 461 U.S. 171 (1983) (speech on public sidewalk around the Supreme Court is protected). And persons with disabilities have lodged vigorous complaints against both public officials and private parties for alleged failures to comply with provisions of the Americans with Disabilities Act. *See, e.g.*, "Demonstration for Disability Rights," *New York Times*, May 15, 2001. From the perspective of those on the receiving end of these criticisms, such speech may be "annoying," but that surely cannot be the basis for the arrest and criminal conviction of the speakers.

Animal rights activists have taken their messages to the streets in vivid protests, speaking out against animals having their throats cut while still fully conscious on slaughterhouse "kill lines," animals raised for their fur being anally and genitally electrocuted to avoid "damaging the product," elephants being beaten with whips and bull hooks to force them to perform degrading and unnatural tricks in circuses, and animals being poisoned and tortured in useless consumer product experiments. Undoubtedly, this speech is "annoying" to those that profit from such animal exploitation. Indeed, one of the purposes of the annoying speech is to convince those industries to lessen or end the animal abuse. But such annoyance has never been subject to criminal sanctions in this nation, at least not "while this Court sits."

It is profoundly out of kilter with this nation's history to suggest, as the state court of appeals did here, that a city ordinance

that permits the punishment of "annoying" speech is constitutional on its face.

3. Another reason for granting the petition is that the decision of the state court of appeals is inconsistent with the commitment to our "first freedom," religious liberty. It is undisputed that the petitioner engaged in his speech and communicative acts because he "opposes abortion on moral and religious grounds." Pet. 2.

The protection of religious freedom, including religiously motivated speech on matters of public concern, is at the very core of the Bill of Rights. The English Act of Toleration of 1689 extended privileges to Protestant dissenters from the officially established Church of England. Colonial Virginia accepted the statute, but required dissenters to apply for permits to preach and to build meeting houses. Some, such as the Presbyterians, did so. Others, such as the Separate Baptists, who appealed to lower class whites with evangelical enthusiasm, refused to seek permission from the government to announce their version of the Gospel, and from 1770 on, were subject to persecution. *See* H.J. Eckenrode, *Separation of Church and State in Virginia: A Study in the Development of the Revolution* 30-37 (1910). In 1771 a Baptist preacher in Caroline County was hauled off in the middle of his sermon and flogged by the sheriff. To protest the outrage, Baptists organized the largest mass meeting in Virginia history to that date in a church near the home of James Madison. *See* Rhys Isaac, "The Rage of Malice of the Old Serpent Devil," in Merrill Peterson and Robert Vaughan, eds., *The Virginia Statute for Religious Freedom* 139-69 (1988).

The editors of Madison's papers note that "religious issues, more than tax and trade regulation disputes with England" loomed large in Madison's consciousness in the critical decade of the break from England. William Hutchinson and William Rachal eds., 1 *Papers of James Madison* 107 (1962). On his way to the colonial capital at Williamsburg, Madison later saw a half dozen itinerant Baptist preachers incarcerated in Culpepper County, Virginia, for the "crime" of preaching without a license.[2] Madison found this

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2 In the struggle for religious freedom in the thirteen original states, the licensing, restriction, and regulation of itinerant preachers was a pressing issue that demanded constitutional reform. Itinerant preachers

experience a jarring one. It impelled him to protect the "full and free exercise of religion" in Virginia's Bill of Rights in 1776, and to embark on a career of public service that led to his drafting of the Constitution in Philadelphia in 1787, and to drafting and securing the passage of the Bill of Rights in the First Congress in 1789. *See* John T. Noonan, Jr., *The Lustre of Our Country: The American Experience of Religious Freedom* 68 (1998), and John T. Noonan, Jr., and Edward McGlynn Gaffney, Jr., *Religious Freedom* 160-63 (2001).

In several cases applying the Religion Clause of the First Amendment to state interference with our first freedom, this Court has protected religious speech on public streets, even though it was manifestly annoying to passersby who invoked state power to stop it. For example, three Jehovah's Witnesses, Newton Cantwell and his sons Jesse and Russell attempted to proselytize residents of a New Haven neighborhood in which about 90% of the residents were Roman Catholics. Two Catholics to whom Jesse Cantwell played a phonograph record called "Enemies" were "incensed" at this attack on the Catholic religion. But this Court reversed the criminal conviction of Jesse Cantwell for inciting a breach of the peace by those who heard the annoying message of the Witnesses. *Cantwell v. Connecticut*, 310 U.S. 296, 301, 303 (1940). Members of this Court have at times found the behavior of the Witnesses to be "provocative, abusive, and ill-mannered," not to mention "unpopular, annoying, or distasteful." *Murdock v. Pennsylvania*, 319 U.S. 105, 115-16 (1943), *see id.* at 166-82 (Jackson, J.,

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were condemned for being arrogant, fanatical, intolerant, uneducated, and mercenary. States passed laws restricting preaching to designated pulpits, licensing and registering preachers, and regulating the qualifications and decorum of preachers. *See* Thomas J. Curry, *The First Freedoms* (1986), at 69-70 (New York), 99 (Virginia), 118 (Connecticut), 171 (Massachusetts); S. Cobb, *The Rise of Religious Liberty in America* (1902), at 126 (North Carolina), 174, 202-03 (Massachusetts), 273 (Connecticut), 317-18, 334-35, 344, 349-53 (New York), 390-94 (Maryland). With the end of establishment and the adoption of free exercise provisions in the various state constitutions, the right to proclaim the gospel in unconventional, unsettling, and "annoying" ways became recognized as one of the most fundamental elements of religious freedom.

dissenting). But this did not keep the Court from guarding their liberties.

After *Cantwell* and *Murdock*, this Court has, for the most part, declined to exclude religious speakers from equal access to a public forum. *See, e.g., Niemotko v. Maryland,* 340 U.S. (1951) (religious groups are entitled to use city streets and parks for meetings and rallies); *Poulos v. New Hampshire*, 345 U.S. 395 (1953 (same); *Widmar v. Vincent* 454 U.S. 263 (1981) (religious speakers have equal right of access to campus of state university); and *Bd. of Educ. of Westside Community Schools v. Mergens*, 496 U.S. 226 (1990) (sustaining Equal Access Act). In particular, the Court has acknowledged that sidewalks "by long tradition or by government fiat have been devoted to assembly or debate." *Perry Education Assn, v. Perry Local Educators' Assn.*, 460 U.S. 37, 45 (1983), and has protected the access of religious speakers to sidewalks even in a town that was wholly owned by a coal company. *Marsh v. Alabama*, 326 U.S. 501 (1946) (overturning the criminal conviction of a Jehovah's Witness for trespass on private property).

As noted above, the Court expressly applied this line of authority to religiously inspired and religiously led civil rights protesters against Jim Crow laws. *Edwards v. South Carolina*, 372 U.S. 229 (1963), and *Cox v. Louisiana*, 379 U.S. 536 (1965).

This Court should grant the petition not only to instruct lower courts that laws like the Rockford ordinance might be misused to squelch the free exercise rights of unpopular religious minorities, but also to reaffirm clearly that the strong presumption in favor of First Amendment-protected activities in public fora cannot be the subject of criminal penalties under vague laws such as this.

Conclusion

In 1974 the City Council of Rockford enacted the ordinance at issue in this case with apparent disregard for the teaching of the Court in *Coates, supra,* and *Grayned, supra.* In 2001 the Rockford police relied on this flawed ordinance rather than on the teaching of this Court. In 2002 the state court issued an opinion that completely ignored this Court's teaching in *Coates* and *Grayned.*

This case thus provides the Court with a vehicle to remind public officials in all three branches of government that the oath of office they take to support the Constitution, U.S. Const., Art. VI, contains an implicit duty to conform their legislation and executive actions to the teachings of this Court on the requirements of the First Amendment. *See, e.g.*, Justice Sandra Day O'Connor, Remarks at Opening of National Constitution Center, Philadelphia, July 4, 2003.

The decision below places unconstitutional limits on protected nonviolent protest activity in which the amici have engaged and plan to engage in the future. This Court should grant the writ and either summarily reverse or put the case on its docket to clarify once again that ordinances punishing "annoying" speech are utterly inconsistent with the "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open." *New York Times v. Sullivan*, 376 U.S. 264, 270 (1964).

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Appendix A
Particular Statements of Interest of Amici Curiae

Communities and Voluntary Associations

As noted in the text of the brief, amici are voluntary associations and individuals who engage in protest on a wide variety of issues. Because Consistent Life organized the participation of these amici in this brief, it is listed first. All the rest of the communities and individuals are listed alphabetically.

Consistent Life is a coalition of individuals and organizations working to promote the consistent life ethic. Its members are committed to the protection of life, which is threatened in today's world by war, abortion, poverty, racism, the arms race, the death penalty and euthanasia. They believe that these issues are linked under a consistent ethic of life. They challenge those working on all or some of these issues to maintain a cooperative spirit of peace, reconciliation and respect in protecting the unprotected. *Carol Crossed* (the former executive director), *Mary S. Rider* (the current executive director), and *Ruth Enero* (former president of the Board of Directors) have frequently engaged in public demonstrations relating to the issues listed above. All three are married women and mothers of many children.

Agape is a community of faith in Franklin, Louisiana, that witnesses for peace and justice through nonviolence. It engages in education of its members and the public, especially on the death penalty, through publishing booklets, brochures, and treatises on how to effect change through raising public awareness and consciousness about issues of justice and peace.

Allies for Peace is a San Francisco-based organization promoting peace and animal rights.

Catholic Peace Fellowship [CPF] is a nationwide organization of Catholics committed to peacemaking in the name of Christ. CPF engages in educational projects about peace and nonviolence, and it supports those who stand for peace by virtue of conscience. For example, some members of CPF have engaged in nonviolent demonstrations protesting laws and policies inimical to peace in today's world.

The Center on Law and Human Rights in Cokedale, Colorado, provides legal services for persons and groups whose human rights are threatened or have been infringed. For example, its cases include immigration law issues and victimization under the PATRIOT Act. The Center also publishes books on peaceful resolution of the conflict in the Middle East.

Citizens United for Alternatives to the Death Penalty [CUADP] is a national organization that works to end the death penalty in the United States through aggressive campaigns of public education and the promotion of tactical grassroots activism. CUADP takes no position on the abortion issue. It does not endorse or support the stand of the defendant on that issue, nor does it necessarily approve of his tactics or actions. It supports the defendant's appeal to the U.S. Supreme Court strictly as a legal matter, urging the Justices that no one should be punished for conduct that is merely "annoying" to others.

The Conference of Major Superiors of Men serves the leadership of Catholic orders of over 25,000 vowed religious priests and brothers in the United States. The Justice and Peace Division provides a voice for these communities throughout society in witnessing against capital punishment, war, poverty, and any issue that threatens life. The civil rights of free speech and assembly are crucial to effective action against oppression. These civil rights are threatened by the criminalization of speech or conduct that is "annoying" to others.

Dorothy Day Catholic Worker House [DDCW] in Washington, D.C. is a community founded by Dorothy Day and Peter Maurin to bear witness to the Gospel that identifies service to the hungry, the thirsty, the homeless, and the imprisoned as a way of recognizing the presence of God in categories of human need. The community provides hospitality to homeless families while working to address the root causes of homelessness. Committed to following the teachings of Christ on nonviolence, the community sponsors a weekly vigil for peace at the Pentagon as well as numerous other demonstrations against war and militarism, poverty and abortion. Other communities in the Catholic Worker network signing this brief include: the *Casa Juan Diego* (Houston, Texas); *Fr. Charlie Mulholland Catholic Worker House* (Garner, North Carolina); *Ithaca, New York Catholic Worker*; the *Los Angeles*

Catholic Worker; *Mary's House* (Birmingham, Alabama); *Peter Maurin Farm* (Marlboro, NY); *St. Francis Catholic Worker Community* (Columbia, Missouri); *St. Francis and Therese Catholic Worker House* (Worcester, Massachusetts); the *St. Joseph House of Hospitality* (Rochester, New York); and the *Silk Hope Catholic Worker* (Silk Hope, North Carolina).

Embrace a Consistent Ethic participates in ongoing peaceful public witness against all forms of taking human life, including opposition to war, capital punishment, euthanasia, abortion, racism and poverty. The members of this community believe that the imposition of criminal penalties on a protester solely because he or she "annoys" someone else is an unconstitutional abridgment of freedoms secured by the First Amendment.

Feminists for Life of America [FFLA] is a national organization with headquarters in Washington, DC. It is a pro-woman, pro-life organization that advocates for change for women and their children. *Feminists for Life of New York*, an affiliate of FFLA, advocates protection for women and their children on issues such as domestic violence, child abuse, and child welfare rights. Each month they participate in a vigil to protest the death penalty.

The Peter Maurin Center in Washington, D.C. was established in 1997. The center seeks to contribute to creating a "society where it is easier to be good" (1) by evangelization in the Catholic Worker tradition, (2) by carrying out the works of mercy through operating a furniture and household goods exchange, (3) by organizing for peace and justice through solidarity with the people of Puerto Rico in their effort to de-colonize, and (4) by work for the abolition of the death penalty. If the government may punish conduct it deems "annoying," it will be able to single out and criminalize movements for social change virtually at will. To concede such power to the government renders democratic practices timid and superficial and essentially disempowers the People in the political process. To protect popular, and especially unpopular, political expression, these effects of the Rockford ordinance must be nullified.

Pax Christi USA is a national Catholic peace movement of 14,000 members committed to the gospel imperative of seeking peace through nonviolence. The members of this association promote peace through personal and social transformation. They

frequently engage in nonviolent protest of policies that undermine peace and justice. The members of the Pax Christi affiliate chapter in Birmingham, Alabama also join this brief.

People for the Ethical Treatment of Animals [PETA] is a charitable organization exempt from taxation pursuant to Internal Revenue Code Section 501(c)(3). As the world's largest animal rights organization, PETA is dedicated to exposing and ending animal exploitation and suffering wherever it occurs consistent with its belief that animals are not ours to eat, wear, experiment on, or use for entertainment. An integral part of PETA's ability to educate the public about the plight of animals is the vigorous use of fundamental free speech activities, including peaceful protests, street-theatre style demonstrations, leafleting, and aggressive social debate. Ordinances, such as the one at issue in this case, that seek to punish "annoying" speech directly threaten PETA's charitable activities.

Plowshares is a coalition of religious believers who seek to enflesh the words of the prophet Isaiah 2:4, "They shall beat their swords into plowshares, and their spears into pruning hooks. Nation shall not take up sword against nation and neither shall they study war anymore." The movement was founded by Daniel Berrigan, S.J., a leader in the opposition to the Vietnam War. Fr. Berrigan joins this brief in his individual capacity, as do the following Plowshares Activists: Peter DeMott, Bruce Friedrich, Ellen Grady, Paul Magno, Patrick O'Neill, and Kathy Boylan Shields. All of these activists have spent many years imprisoned for their nonviolent protest against war, but none of them thinks it is permissible for the government to punish speech it deems "annoying" to others.

Sojourners is a Christian ministry whose mission is to proclaim and practice the biblical call to integrate spiritual renewal and social justice. In response to this call, we offer a vision for faith in public life, including publishing Sojourners magazine, preaching, teaching, organizing, and public witness. Members of Sojourners seek to be guided in their lives and work by the biblical principles of justice, mercy, and humility. Sojourners has at times organized and participated in public protest activities, and thus has a vital interest in this case.

Vieques Support Committee is an organization that has helped to organize protests against repeated bombing of Vieques Island in Puerto Rico by the United States Navy.

Voices in the Wilderness is a group that seeks to end the economic sanctions against the people of Iraq. The group sends delegations to Iraq to break the siege and bring desperately needed medical supplies to children and families. It has also sponsored demonstrations against the ongoing sanctions, including week-long fasting outside the headquarters of the United Nations in New York.

Witnesses for Reconciliation was formerly the Committee of Southern Churchmen that was founded in the 1960 to promote the work and vision of Dr. Martin Luther King, Jr., and to advance his cause of nonviolence. The Committee promoted, participated in, and led marches, sit-ins, boycotts, and the freedom rides. Today it is small but continues to advance the cause of civil and political rights for minorities.

Individuals

David Atwood is the director of the Texas Coalition to Abolish the Death Penalty Pax Christi of Texas. This group regularly organizes demonstrations against the death penalty in Texas.

Donald Bauer is a Catholic priest who served as a member of the New York State Labor and Religion Coalition since its inception, and who worked tirelessly for farmworker wage equity and other issues on behalf of the poor. He also was appointed to the Congress on Racial Equality and in both of these capacities used public witness to educate and challenge the public.

Michael Baxter, C.S.C. is a theology professor at the University of Notre Dame, and the national president of the Catholic Peace Fellowship.

Wendell Berry is an author, farmer, English professor, and poet. As a long-time conservationist and small farm advocate, he has written many books deploring the loss of family farms and rural jobs to farm factories. He is the recipient of many awards, including the Lyndhurst Foundation Prize and the Jean Stein Award from the American Academy of Arts and Letters.

Abe Bonowitz is the director of Citizens United for Alternatives to the Death Penalty [CUADP], a national organization that works to end the death penalty in the United States through aggressive campaigns of public education and the promotion of tactical grassroots activism. While CUADP takes no position on the abortion issue, Bonowitz is pro-choice and, therefore, he is in profound disagreement with the petitioner on that issue and deplores the violent tactics that some abortion opponents have been known to employ. He supports this appeal only because, as a legal matter, the First Amendment should shield protesters who are merely "annoying" from arrest and criminal prosecution.

Roy Bourgeois, M.M., is a Maryknoll priest who, after years as a foreign missionary in Central America, founded the School of the Americas Watch [SOAW], a loose coalition of citizens concerned about the widespread abuse of human rights – including torture and murder of religious leaders and labor leaders throughout Central and South America – by foreign military officers who study at the U.S. Army School of the Americas at Ft. Benning, Georgia. Each November – on the anniversary of the assassination of seven Jesuit priests and their domestic workers in San Salvador by graduates of the School of the Americas – SOAW organizes a major demonstration at Ft. Benning against the negative effects of this program upon peace and justice in our hemisphere.

Bernard Broussard is founder of *Starthrowers*, a human rights organization based in Louisiana. He has played a leading role in community organization on behalf of the civil rights of African Americans in Louisiana since the mid 1960s. From that time to the present, he continues to challenge through marches, demonstrations, holding prayer meetings on behalf of the oppressed in the South.

Will Davis Campbell is a writer, lecturer, and long time supporter of the Civil Rights Movement who helped escort African-American children when they tried to integrate a Little Rock, Arkansas high school back in 1957. A founding member of Dr. King's Southern Christian Leadership Conference, he became the Executive Director of the Committee for Southern Churchmen, which is now known as Witnesses for Reconciliation.

Thomas Cornell is the founder of the Catholic Peace Fellowship and an ordained deacon in the Catholic Church. He is

the editor of *The Catholic Worker*, a newspaper of national circulation founded by Dorothy Day, and he lives at the Peter Maurin Farm in Marlboro, New York.

Stephen Dear is the executive director of People of Faith Against the Death Penalty, a state-wide organization with headquarters in Carrboro, North Carolina.

Richard Deats is the editor of *Fellowship* magazine, published by the Fellowship of Reconciliation [FOR], the largest, oldest interfaith peace organization in the United States. Since 1915 FOR has carried on programs and educational projects concerned w domestic and in peace and justice, nonviolent alternatives to conflict, and the rights of conscience. It is the American affiliate of the International FOR, which has affiliates in more than 40 countries.

Heather DeMian is a disability and homeless rights activist. Born with Ehlers-Danlos Syndrome, which requires her to use wheelchairs and service dogs, she manages the Interfaith Day Center for the homeless of Columbia, Missouri; and she assists with the Loaves & Fishes Soupkitchen operated by the St. Francis House Catholic Worker Community. She is a member of the disability rights organizations, *Not Dead Yet!* and *Americans Disabled For Accessible Public Transit* [ADAPT].

Jeff Dietrich is a founding member of the Los Angeles Catholic Worker, and the editor of *Catholic Agitator*. He has participated in scores of peace demonstrations and actions in support of justice.

Jim and Shelley Douglass are peace activists who co-founded Mary House, a Catholic Worker community in Birmingham, Alabama. They are also the co-founders of Ground Zero Center for Nonviolent Action. They believe that to bolster any one party's mental security in a controversy by destroying an opponent's right to dissent can undermine the most basic human freedoms secured by the Constitution.

William and Eugenia Durland are the co-founders of the Center on Law and Human Rights. They believe there is a danger that, in the wake of September 11, our constitutional protections will be eradicated in the name of a security state. In this context it is especially important to reaffirm that the First Amendment prohibits punishment of speech that is merely "annoying."

Mary Anne Flores, *Clare Grady*, and *Jessica Stewart* are members of the *Ithaca Peace Community*, a group that expresses concern about social justice issues and facilitates the representation of those who would otherwise remain voiceless and unheard in our society. These three women have engaged in nonviolent direct action that has led to their arrest for trespass upon government property. For example, they have served sentences for trespass at the Hancock Airfield in Syracuse, NY, in order to protest the ongoing bombing of the people of Iraq.

Thomas Gumbleton is a Catholic bishop in the Archdiocese of Detroit, Michigan, and a founder of Pax Christi, USA. He was a leading voice urging the United States Conference of Catholic Bishops to issue its statement in 1971 collectively opposing the Vietnam War on the ground that the war could no longer be justified under the principles of the just war tradition. Bishop Gumbleton has worked and visited in poor and war-torn countries in Latin America and the Caribbean and is deeply concerned with human rights violations around the world. He holds a deep belief in the power of nonviolence to effect social change.

Nat Hentoff is a renowned civil libertarian who has served on the national board of directors of the American Civil Liberties Union. He is a nationally syndicated columnist and author.

Kathy Kelly, a three-time Nobel Peace prize nominee, is co-founder and co-coordinator of voices in the wilderness, a national organization of peace activists which has organized delegations to visit the people of Iraq with small amounts of medical supplies to children and families in need. kathy and voices organized iraq peace team delegations who have lived alongside ordinary Iraqis before, during, and after the "shock and awe" bombardments, and they continue efforts of outreach and education to teach peace and to foster non-violent resistance to war.

Lana Jacobs received the Martin Luther King Award from Companions of Shalom for her work with the inner-city in Columbia, MO, where she lives in community with the poor. Ms. Jacobs has been arrested numerous times for nonviolent direct actions defending the homeless and hungry. Each month she engages in some form of public protest against military build-up, which in her view robs the poor of what they rightfully deserve.

Andy Lipscomb is a member of *Witnesses for Reconciliation*, a board member of *Consistent Life*, and a long-time activist for civil rights.

Deborah McEvoy, is a member of *Feminists for Life of America* and of the Detroit Peace Community. In her role as a health professional, she supports the needs of women and their children through petitions, public advocacy and demonstrations.

Rachel MacNair, a Quaker, is the founder and director of *the Feminism and Nonviolence Studies Association*. She is the author of *The Psychology of Peace: An Introduction.*

Barry Nakell is an attorney in North Carolina actively engaged in the defense of civil liberties for decades as a member of the American Civil Liberties Union, and as a former professor of law at the University of North Carolina at Chapel Hill. Mr. Nakell is of the view that the use of a municipal ordinance banning "annoying" speech and conduct is a severe infringement on the rights secured in the United States Constitution.

John W. Oliver was the coordinator of the Orthodox Peace Fellowship in North America from 1999 to 2003. He is professor emeritus of History at Malone College.

Michele Pflaum is the President of *The Center for Reflection on the Second Law*, and a longtime environmental activist, working with groups such as *Earth First!*

Scott and Claire Schaeffer-Duffy are co-founders of the Saints Francis and Therese Catholic Worker in Worcester, MA, a lay Catholic pacifist community which offers hospitality to homeless men and women. They also publish the *Catholic Radical*, a bi-monthly journal of opinion. Scott has lectured extensively at colleges and universities throughout New England on the value of nonviolent direct action.

Martin Sheen is an actor who has participated for nearly two decades in protests against weapons of mass destruction and in demonstrations pertaining to homelessness and other issues of social justice.

John Stoner is a member of Mennonite Central Committee, a traditional peace church. He is the founder of *Every Church a Peace Church*, a movement to share the convictions of the Anabaptist community with all other Christian churches.

Andrew L. Sullivan served as the Chair of the Libertarian Party of Nebraska from 1999 to 2001. Without nonviolent action, people will passively accept government oppression no matter how severe, or be propelled directly into violent action, for the penalty for actions of nonviolence would become essentially the same as violent actions.

Lenore Yarger is a long-time advocate for the poor. She has traveled to Iraq with the organization *September 11 Families for a Peaceful Tomorrow.*

Harry E. Yeide, Jr. is a Professor of Religion at George Washington University, with a special interest in Ethics and Peace Studies.

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